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ACTION AF-00

INFO	LOG-00	NP-00	AGRE-00	AID-00	AMAD-00	ACQ-00	CIAE-00
	DODE-00	SRPP-00	DS-00	EB-00	EUR-00	VC-00	FRB-00
	H-01	TEDE-00	INR-00	IO-00	L-00	VCE-00	AC-01
	NSAE-00	OIC-02	OMB-01	OPIC-01	PA-00	PM-00	PRS-00
	ACE-00	P-00	SP-00	STR-00	USIE-00	R-00	PMB-00
	DSCC-00	PRM-01	DRL-02	G-00	NFAT-00	SAS-00	/009W

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FM AMEMBASSY HARARE  
TO SECSTATE WASHDC PRIORITY 7161  
INFO NSC WASHDC PRIORITY  
DEPT OF TREASURY WASHDC  
USDOC WASHDC  
SOUTHERN AFRICAN DEVELOPMENT COMMUNITY

C O N F I D E N T I A L SECTION 01 OF 02 HARARE 005337

SIPDIS

NSC FOR SENIOR AFRICA DIRECTOR GAYLE SMITH  
USDOC FOR DHENKE-ROGERS  
LONDON FOR CGURNEY  
PARIS FOR B WILLIAMS

USTR FOR ROSA WHITAKER

E.O. 12958: DECL 09/20/10

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SUBJECT: COMMERCIAL FARMERS UNION FILES BROAD LAWSUIT  
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AGAINST ZIMBABWE GOVERNMENT.

REFS: A) HARARE 4695 B) HARARE 4818

1. (C) SUMMARY: THE COMMERCIAL FARMERS UNION (CFU) FILED A BROAD LAWSUIT AGAINST THE GOVERNMENT OF ZIMBABWE (GOZ) ON SEPTEMBER 18 WITH THE SUPREME COURT OVER THE BREAKDOWN IN LAW AND ORDER AND CHALLENGING THE CONSTITUTIONALITY OF THE GOZ'S FAST TRACK RESETTLEMENT EFFORT. THE LAWSUIT CITES PRESIDENT MUGABE AS A RESPONDENT, ALONG WITH FOUR MEMBERS OF THE CABINET AND THE COMMISSIONER OF POLICE. THE CFU HAD PREVIOUSLY FILED A MORE LIMITED LAWSUIT AGAINST THE GOZ, BUT HAD WITHDRAWN IT IN ORDER TO ENCOURAGE DIALOGUE WITH THE GOZ (REF A). CFU DEPUTY DIRECTOR FOR REGIONS, JERRY GRANT, TOLD ECONOFF ON SEPTEMBER 19 THAT IT HAD BEEN A MISTAKE TO WITHDRAW THE PREVIOUS LAWSUIT AS MUGABE HAD TAKEN THIS AS A SIGN OF WEAKNESS. THE CFU HOPED THAT THE NEW LAWSUIT WOULD LEAD TO A SUSPENSION OF POSSIBLE FARMER EVICTIONS DUE AT THE END OF SEPTEMBER AND ENCOURAGE BANKS TO PROVIDE FINANCING FOR THE PLANTING SEASON. END SUMMARY.

2. (C) ECONOFF MET ON SEPTEMBER 19 WITH CFU OFFICIALS COLIN CLOETE, VICE PRESIDENT FOR COMMODITIES; RICHARD AMIOT, DEPUTY DIRECTOR FOR COMMODITIES; AND JERRY GRANT, DEPUTY DIRECTOR FOR REGIONS; TO DISCUSS THE LAWSUIT FILED THE PREVIOUS DAY. CLOETE SAID THE NEW LAWSUIT ENCOMPASSED MORE CHARGES THAN THE EARLIER ONE. THE LAWSUIT WAS FILED WITH AN "URGENT INTERLOCUTORY CHAMBER APPLICATION", MEANING THAT THE SUPREME COURT SHOULD  
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AGREE TO HEAR THE CASE WITHIN A WEEK, POSSIBLY BY FRIDAY, SEPTEMBER 22. THIS IS IMPORTANT AS ONE OF THE GOALS OF THE LAWSUIT IS TO GET A COURT INJUNCTION AGAINST EVICTIONS OF FARMERS, SOME OF WHICH COULD OCCUR AS EARLY AS SEPTEMBER 27.

3. (C) THE LAWSUIT, OVER 1000 PAGES LONG, CHALLENGES IN SEVEN POINTS THE CONSTITUTIONALITY OF PLANNED FARM SEIZURES AND THE INFRINGEMENT OF THE RIGHTS OF CFU FARMERS AND FARM WORKERS DURING THE FARM OCCUPATIONS. THE LAWSUIT NAMES SIX RESPONDENTS: PRESIDENT MUGABE; JOSEPH MADE, MINISTER OF LANDS, AGRICULTURE, AND RURAL RESETTLEMENT; JOHN NKOMO, MINISTER OF HOME AFFAIRS; IGNATIUS CHOMBO, MINISTER OF PUBLIC WORKS AND NATIONAL HOUSING; JOYCE MUJURU, MINISTER OF RURAL RESOURCES AND WATER DEVELOPMENT; AND AUGUSTINE CHIHURI, COMMISSIONER OF POLICE.

4. (C) JERRY GRANT SAID THE CFU HAD NO CHOICE BUT TO FILE THE LAWSUIT BECAUSE THE GOZ HAD REFUSED TO ENTER

INTO A GENUINE DIALOGUE ON LAND AND FAILED TO PROTECT FARMERS BY MAINTAINING LAW AND ORDER. THE DECISION TO FILE THE LAWSUIT WAS TAKEN AFTER THE CFU ANNUAL CONGRESS LAST WEEK, DURING WHICH INDIVIDUAL CFU MEMBERS MADE CLEAR THEIR ANGER AT THE FACT THAT THE FIRST LAWSUIT HAD BEEN WITHDRAWN. ACCORDING TO GRANT, THE NEW LAWSUIT WAS FILED ON BEHALF OF THE CFU RATHER THAN INDIVIDUAL CFU FARMERS, IN THE HOPE THAT THIS WOULD BETTER PROTECT THEM AGAINST RETRIBUTION. MEMBERS OF THE CFU EXECUTIVE BODY HAVE ALREADY BEEN TARGETED BY THE GOZ, WITH THEIR OWN FARMS BEING OCCUPIED AND IDENTIFIED BY THE GOZ FOR  
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COMPULSORY ACQUISITION.

15. (C) GRANT EXPECTS THE ZIMBABWE SUPREME COURT TO RAPIDLY HEAR THE LAWSUIT AND TO RULE IN FAVOR OF THE CFU, BUT RESERVED JUDGEMENT ON WHETHER THE GOZ WOULD ABIDE BY THE RULING. HE DID SURMISE THAT ONE PROBABLE COURSE OF ACTION WILL BE FOR MUGABE TO CRACK DOWN ON THE INDEPENDENCE OF THE SUPREME COURT AND THE JUDICIAL BRANCH AS A WHOLE.

16. (C) COMMENT: THE CFU OFFICIALS MADE CLEAR THAT THEY DON'T BELIEVE THIS LAWSUIT WILL BRING AN END TO THE LAND CRISIS OR IMMEDIATELY RESTORE THE RULE OF LAW. THEIR IMMEDIATE HOPE IS THAT THE SUPREME COURT WILL QUICKLY ISSUE AN INJUNCTION AGAINST FARM SEIZURES AND THE SUBSEQUENT EVICTIONS OF THE FARM OWNERS, THEREBY ALLOWING FARMERS TO OBTAIN FINANCING FOR THE CURRENT PLANTING SEASON. IN THE LONGER RUN, THE CFU CLEARLY HOPES THAT A FAVORABLE SUPREME COURT RULING WILL ENCOURAGE THE INTERNATIONAL COMMUNITY TO BRING SIGNIFICANT PRESSURE TO BEAR ON PRESIDENT MUGABE TO END THE DESTRUCTIVE FAST TRACK RESETTLEMENT EFFORT AND UNDERTAKE A FAIR, TRANSPARENT LAND REFORM PROCESS. END COMMENT.

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